

DEPARTMENT OF BUILDING AND DEVELOPMENT

**OCTOBER 22, 2009 PLANNING COMMISSION WORKSESSION**

**TO:** Loudoun County Planning Commission

**FROM:** Rory Toth, Planner, Zoning Administration  
Mark Stultz, Deputy Zoning Administrator

**DATE:** October 15, 2009

**RE:** *ZOAM-2009-0002 Zoning Ordinance Amendment to Restrict the Parking of Vehicles on Unpaved Surfaces and Limit Paved Parking Surface Areas Within Yards in Certain Residential and Planned Development Housing Zoning Districts*

The above referenced application was considered by the Planning Commission at their September 17, 2009 Public Hearing. Two members of the public spoke at the hearing in favor of the proposed amendment. The Planning Commission identified a number of issues regarding the proposed amendment at the hearing and voted to send the amendment to a work session for further discussion.

A Planning Commission work session was held on October 8, 2009 to discuss the ZOAM and a list of issues outlined in the Issues Matrix (Attachment 2). Two members of the public were present at the work session and were allowed to speak, because there was the misunderstanding, based on an e-mail notice regarding the work session, that there would be an opportunity for the public to provide additional comment at the work session. Both citizens were in favor of the amendment but felt that the proposed regulations did not go far enough to address the issues. A summary of the Planning Commission's discussion and action(s), if any, are shown in the Issues Matrix. In addition, the Planning Commission voted to make a change to Section 5-800(D)(1) to allow temporary parking on unpaved surfaces only for the purpose of active loading and unloading. This proposed text showing this change is provided as Attachment 1.

At the October 8, 2009 Planning Commission work session, Commissioners raised the following concerns regarding the proposed draft text: 1) the draft text does not include a minimum setback from side yards for paving, which could allow one the ability to pave a driveway up to the property line, resulting in paving that mistakenly crosses the property line and further increases runoff; and 2) the draft text does not require a paving permit for driveways, providing an additional source of revenue and allowing staff to proactively identify paving that exceeds the proposed limits and paving that crosses property lines. However, it is noted, as further explained in the Issues Matrix, that the Planning Commission did not wish to go forward with making changes to the draft text at this time regarding these two issues but recommends that the Board of Supervisors consider these changes with a separate Ordinance amendment in the future.. In addition, per the Planning Commission direction at the October 8, 2009 work session,

Attachment 3 contains a list of Planning Commission issues and recommendations to be forwarded to the Board of Supervisors for further consideration.

## **SUGGESTED MOTION:**

I move that the Planning Commission forward ZOAM-2009-0002 to the Board of Supervisors with a recommendation of approval based on the proposed text dated September 17, 2009 from the Planning Commission public hearing, (as amended by the Planning Commission at the October 8, 2009 work session)

I further move that the Planning Commission forward the list of Additional Recommendations and Issues dated October 15, 2009 to the Board of Supervisors for their consideration.

## **II. ATTACHMENTS**

<b>Number</b>	<b>Description</b>	<b>Pages</b>
1.	Proposed Draft Text as Amended at the October 8, 2009 PC Work Session	A1-1-A1-2
2.	Issues Matrix With PC Recommendations/Actions	A2-1-A2-5
3.	Draft Letter for Chairman Signature regarding Additional PC Recommendations/Issues for the Board to consider	A3-1-A3-2

**Section 5-800 Limitations on Vehicles in Residential Districts.**

(A) **Major Recreational Equipment.** No major recreational equipment or any container constructed for the transportation or storage of such equipment shall be parked or stored on any road, lot, or dedicated open space in a residential district except in a car port or enclosed building or behind the nearest portion of a building to a street, provided, however, that such equipment may be parked anywhere on residential premises for a period not to exceed 24 hours. No such equipment shall be used for living, sleeping, or housekeeping purposes.

(B) **Commercial Vehicles.** The parking or storage of a commercial vehicle, or a container constructed for the transportation of cargo is prohibited in all residential districts, except that one (1) commercial vehicle with a manufacturer's rating of less than 1-1/2 tons may be parked on any lot on which there is located a principal building, provided that such vehicle is parked in an enclosed garage, accessory building, approved off-street parking area or behind the nearest portion of buildings to streets and is used by a resident of the premises. This regulation shall not be interpreted to prohibit commercial vehicles or containers from loading and unloading in any residential district.

(C) **Inoperable Vehicles.**

(1) No repair, maintenance or restoration of motor vehicles is permitted on any residential lot or common area serving such lot located within any urban residential zoning district, as defined in Article 3 of this Ordinance, unless the vehicle is owned by and registered in the name of an occupant of the dwelling constituting the principal use for such lot.

(2) No inoperable vehicle shall be parked or stored outside a building for more than one (1) week on a lot of less than ten (10) acres in area in any residential district. Not more than one (1) inoperable vehicle may be parked outdoors at a time on any lot greater than ten (10) acres in area in any residential district. Any vehicle not displaying current license plates and inspection validation certificate as required by Virginia law shall be construed as an inoperable vehicle. Not more than one (1) inoperable item of major recreational equipment shall be parked outdoors on any lot of less than ten (10) acres in area in any residential district.

**(D) Limitations on Parking and Paved Parking Surfaces Within Residential Yards.**

The following requirements shall apply to single family detached dwellings on lots in the R-1, R-2, R-3, R-4, and R-8 Zoning Districts and the portions of PD-H Zoning Districts that are administered as the R-1, R-2, R-3, R-4, and R-8 Zoning Districts.

- (1) All parking for vehicles in any yard shall be on a paved parking surface, provided, however, that this shall not be deemed to preclude temporary parking on an unpaved surface in a yard for active loading and unloading.
- (2) The maximum amount of paved parking surface in a front yard shall not exceed twenty-five (25) percent of the front yard area in the R-1 and R-2 Zoning Districts; thirty (30) percent of the front yard area in the R-3 and R-4 Zoning Districts; and forty (40) percent of the front yard area in the R-8 Zoning District. These limitations may be exceeded for a paved surface that is:
- (a) Directly contiguous with, and providing primary access to, two (2) side-by-side parking spaces as long as the dimensions of the paved surface access area are not more than twenty-five (25) feet long and eighteen (18) feet wide; or
- (b) Located on a lot which has its primary access from a collector or arterial road, and comprises two (2) side-by-side parking spaces and a vehicular turn-around area, as long as the dimensions of the paved surface area are not more than twenty-five (25) feet long and eighteen (18) feet wide, and the area of the turn-around does not exceed 162 square feet; or
- (c) A driveway on a pipestem lot.
- (3) For the purposes of this Section, "paved parking surface" shall mean the area of a lot that is used for the parking of vehicles, inclusive of the driveway for accessing such parking, that is surfaced with asphalt, poured or precast concrete, brick, stone, gravel, or any other impervious surface, or grasscrete or other similar pervious surface.
- (4) The Zoning Administrator may modify the requirements of Section 5-800(D) if an applicant can demonstrate that the requirements of this Section cannot be met, while meeting the amount of parking required by Section 5-1100, because of (a) the exceptional size and/or shape of the lot; (b) environmental or engineering constraints on the lot; (c) special accessibility needs; or (d) other extraordinary situations or conditions of the lot. The Zoning Administrator may attach conditions to any modification to ensure that the results of the modification will be in accordance with the purpose and intent of this Section.



**ZOAM-2009-0002, PARKING AND PAVING RESTRICTIONS IN YARDS**  
**ACCUMULATED ISSUES DISCUSSED AT PLANNING COMMISSION WORK SESSIONS AND PLANNING COMMISSION PUBLIC HEARING**

October 15, 2009

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No.	ISSUE DESCRIPTION	RAISED BY	STAFF COMMENTS & RECOMMENDATION	PLANNING COMMISSION COMMENTS & RECOMMENDATION
1	<b>Public Notice</b> - One of the concerns raised by several of the Commissioners at the public hearing was the lack of citizens that showed up to speak at the hearing to provide input. The Commission discussed the options of holding an input session or a second public hearing to obtain additional input from the public on the proposed amendment. It was decided that this would be discussed further at the October 8 work session.	Planning Commission	<p>Staff defers to the Planning Commission as to whether a public input session or an additional public hearing should be held to receive additional input on the proposed amendment. Staff requests direction from the Planning Commission on how the public should be informed of a future input session and/or public hearing, beyond the notice required by the State Code and Zoning Ordinance.</p> <p>The State Code and Section 6-601(C)(1) of the <u>Revised 1993 Loudoun County Zoning Ordinance</u> require that a notice of a public hearing regarding a zoning ordinance amendment be published in a newspaper with general circulation in the County. Such notice shall appear at least once a week for two (2) successive weeks and with the second advertisement not more than 21 and no fewer than five (5) calendar days prior to the public hearing. Such required notice was provided for this amendment.</p> <p>In addition to the required newspaper advertisement, the Planning Commission Chair and Vice Chair directed Staff to send an e-mail to the Potomac/Sterling Outreach participants prior to the public hearing to make them aware of the hearing. This request was made because the amendment was initiated, in part, to address the issue of excessive parking in front yards and on unpaved surfaces that was frequently expressed during the Outreach project. An e-mail was sent on September 10, 2009 to the e-mail addresses provided on the County's most current list of Outreach participants. Of the approximately 680 e-mails sent, 66 e-mails were returned as undeliverable and an additional 10 responses were received as automatic replies stating that the person was out of the office. It is assumed that the other e-mails were delivered.</p>	<p>The consensus of the Commission was that sufficient notice and opportunity for public comment were provided.</p> <p>Two members of the public were present at the work session and were allowed to speak, because there was the misunderstanding, based on an e-mail notice regarding the work session, that there would be an opportunity for the public to provide additional comment at the work session. Both citizens were in favor of the amendment but felt that the proposed regulations did not go far enough to address the issues.</p>

Attachment 2

A2-1

**ZOAM-2009-0002, PARKING AND PAVING RESTRICTIONS IN YARDS**  
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No.	ISSUE DESCRIPTION	RAISED BY	STAFF COMMENTS & RECOMMENDATION	PLANNING COMMISSION COMMENTS & RECOMMENDATION
			In addition, a press release was issued to the media on September 10, 2009 regarding the amendment and the Planning Commission public hearing. Furthermore, a brief description of the amendment, with a link to the Planning Commission Staff Report, was placed on the County's website on both the Zoning and Potomac/Sterling Outreach webpage. Documents and public comment are also available to the public through the LOLA system at <a href="http://www.loudoun.gov">www.loudoun.gov</a> .	
2	<p><b>Section 5-800(D) – Applicability</b> – The question was raised as to whether the regulations should apply only to single family detached lots in the Residential (R) and Planned Development – Housing (PD-H) Zoning Districts, as currently proposed?</p> <p>One citizen expressed the desire to have the amendment apply to Broad Run Farms, which is zoned A-3 and does not have community covenants.</p>	<p>Commissioner Chaloux</p> <p>James E. Kelly-Citizen (e-mail)</p>	Pursuant to the Board of Supervisors' direction with the approval of the Resolution of Intent to Amend, the regulations were drafted to only apply to single family detached lots in the Residential (R) and Planned Development – Housing (PD-H) Zoning Districts. If it is the desire of the Planning Commission to have the regulations apply to additional unit types and or zoning districts, a new Resolution of Intent to Amend will need to be approved, and a new public notice and Planning Commission public hearing will be necessary. Staff recommends that the Planning Commission move forward with the amendment for the zoning districts currently specified and, if desired, request that the Board of Supervisors consider adding additional zoning districts with a future amendment.	The Commission discussed the option to extend the ZOAM to apply to A-3 lots only in the suburban area of the County. However, it was noted that zoning district regulations must be uniform and cannot be applied differently based on where the district is mapped. Therefore, it was determined that the ZOAM should move forward with the zoning districts listed in the draft text. No action necessary.
3	<b>Section 5-800(D)(1) – 48 Hour Timeframe For Allowed Parking on Unpaved Surfaces</b> – There is a concern that the 48 hour time frame to allow parking in a front yard on an unpaved surface for the loading, unloading, cleaning and repair of vehicles will make it difficult to enforce the proposed regulations. It was also noted that the proposed 48 hour timeframe is not consistent with the 24 hour timeframe for the parking of recreational vehicles anywhere on a residential lot.	<p>Commissioner Syska</p> <p>Commissioner Ruedisueli</p> <p>Commissioner Robinson</p> <p>Commissioner Chaloux</p>	Staff recommends that Section 5-800(D)(1) be revised to reduce the timeframe to 24 hours and to limit the purpose for the loading and unloading of vehicles only.	The Commission recommended that the proposed text in Section 5-800(D)(1), regarding the 48 hour timeframe for parking on unpaved surfaces for various purposes, be revised to only allow parking on unpaved surfaces for active loading and unloading. The proposed text showing this change is included in Attachment 1 of the October 15, 2009 work session packet.

A2-2

**ZOAM-2009-0002, PARKING AND PAVING RESTRICTIONS IN YARDS**  
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No.	ISSUE DESCRIPTION	RAISED BY	STAFF COMMENTS & RECOMMENDATION	PLANNING COMMISSION COMMENTS & RECOMMENDATION
4	<p><b>Section 5-800(D)(2) – Paved Parking Surface Percentages</b> - There is a concern that the proposed percentages of paved parking surfaces is excessive and would allow for too many cars to be parked in the front yard.</p> <p>The question was raised as to whether the regulations should limit the number of cars that can be allowed to park in the front yard.</p> <p>There was also the question as to whether the paving limitation should be based on the house building footprint – so that the building is always the predominant feature of the lot.</p>	<p>Commissioner Syska Commissioner Ruedisueli Commissioner Robinson Commissioner Chaloux</p>	<p>Staff recommends that the proposed percentages for the paved parking surfaces be retained. Staff does not recommend limiting the number of cars that should be permitted to park in the front yard. Staff has not considered paving limits based on the house footprint. If the Planning Commission wishes to pursue these other approaches, then a new Resolution of Intent to Amend will need to be approved, and a new public notice and Planning Commission public hearing will be necessary.</p>	<p>The Commission discussed the options of including a maximum paving percentage in the side and rear yard. The Commission also considered paving limits based upon the house footprint. Discussion of the pros and cons regarding the two options were debated. It was noted by Staff that the Intent to Amend and the notice were written broad enough to allow the Commission to consider restrictions on paving in the side and rear yards. Commissioners had concerns with placing restrictions on the maximum amount of paving in the side and rear yards, in that it may result in additional parking being moved to the front yard, which would add to the main problem that the amendment is trying to address. The Commission did not pursue paving percentage limitations in the side and rear yards. Also, the Commission did not pursue proposed language that based the paving limitations on the house building footprint. Therefore, no action.</p>
5	<p><b>Section 5-800(D)(2) – Paved Parking Surface Percentages</b> - The question was raised as to whether the regulations should include limits on the amount of paved parking surfaces that should be permitted in side and rear yards?</p> <p>Is there any way to discourage people from parking cars in the backyard without extending the ordinance there? Can driveways be limited to the front yard and/or can pavement be limited to the front yard.</p>	<p>Planning Commission- Chaloux</p> <p>Helen Casey-Citizen (e-mail)</p> <p>Commissioner Maio</p>	<p>The current regulations permit the parking of vehicles in the side and rear yards on paved surfaces only. However, the proposed regulations, as currently written, do not limit the amount of paving that can be provided in the side and rear yards. The amendment was drafted to primarily deal with the issue of excessive parking of vehicles and paved surfaces in the front yards, which is most visible from the street. The Resolution of Intent to Amend and the newspaper advertisement for the amendment were written broadly enough to allow the Commission to consider restrictions on paved surfaces on side and rear yards. However, depending on the extent of change proposed by the Commission, the County Attorney may need to be consulted regarding whether another public hearing is necessary.</p>	<p>See Issue #4 above. Staff noted that the current proposed language as written precludes the parking of vehicles on an unpaved surface in any yard. No further action.</p>

A2-3



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6	<b>Lack of a Permit for Paving.</b> There is a concern that the County does not require a permit for installing paving.	Commissioner Syska	Currently, the County does not review paving at the time of a zoning permit for single family detached homes, as there are currently no requirements pertaining to paving. The County also does not currently require a permit for new or expanding paving. Staff proposes to check the paving for new homes at the time of zoning and/or occupancy permit. For existing homes, all paving that existed at the time of the adoption of the regulations will not be subject to the paving limits. Any new paving installed after adoption of the regulations will be checked for compliance when a violation complaint is received. The addition of a requirement for a paving permit is outside the scope of this amendment and will require a new Resolution of Intent to Amend, a new public notice, and another Planning Commission public hearing.	<p>The Commission discussed the option of requiring a permit for paving of driveways and its impact on citizens. The Commission expressed concerns with requiring a permit for paving due to the cost that citizens may incur to pay for a survey to stake property lines and for the cost of the permit itself. Staff noted that the addition of a requirement for a paving permit is outside the scope of this amendment and will require a new Resolution of Intent to Amend, a new public notice, and another Planning Commission public hearing.</p> <p>The Commission did recommend that if the ZOAM is adopted that an education outreach program be provided to citizens to explain the new regulations and how they will be administered and enforced. No further action.</p>
7	<b>How Will the Regulations Be Enforced</b> – Questions were raised as to how the regulations will be enforced.	Commissioner Syska  Stu Shatz-Citizen (e-mail)	Unless the Board of Supervisors directs otherwise, the proposed regulations will be enforced when the County receives a signed violation complaint. Staff has provided a chart as Attachment 3 of the Staff Report for the Oct. 8 <sup>th</sup> work session that summarizes the zoning ordinance violation enforcement process. The site inspections can occur at night and on weekends, in addition to normal County working hours.	The Commission requested that the Staff Report for the Board of Supervisors public hearing explain the enforcement process and make it clear that a person has the option to check a box on the zoning complaint form to let their name remain anonymous when filing a zoning complaint form. No further action.
8	<b>Do the Regulations Apply to Boats and Recreational Vehicles?</b> A question was raised as to whether the proposed regulations would apply to boats, trailers and recreational vehicles, and whether the regulations would allow someone to park a boat in the back yard on paving.	Ellen Barton – Citizen (Phone call)  James E. Kelly-Citizen (e-mail)	The regulations pertaining to the parking of boats, trailers and recreational equipment in residential districts are provided in Section 5-800(A) of the Zoning Ordinance. This amendment does not propose any changes to Section 5-800(A). Any such changes desired to this Section would be outside of the scope of this amendment and would require a new Resolution of Intent to Amend, a new public notice and another Planning Commission public hearing. Section 5-800(A) states that no major recreational equipment or any container constructed for the transportation or storage of such equipment shall be parked or stored on any road, lot, or	No further action.

A2-4



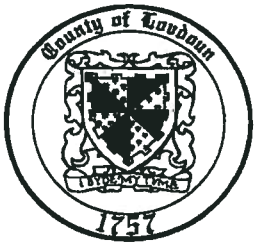
**ZOAM-2009-0002, PARKING AND PAVING RESTRICTIONS IN YARDS**  
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			dedicated open space in a residential district except in a car port or enclosed building or behind the nearest portion of a building to a street.	
9	<b>Do the Regulations Apply to Existing Gravel Driveways? Do the Regulations Require the Paving of Existing Gravel Driveways?</b>	Rich Lichvar-Citizen (e-mail)	Staff notes that the proposed regulations will not apply to existing paved driveways. Gravel driveways are included in the definition of "paved parking surface". The regulations would not require gravel driveways to be paved with asphalt or concrete.	No action.

A2-5



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**Department of Planning**

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**LOUDOUN COUNTY PLANNING COMMISSION**

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**Glen Bayless**  
Sugarland Run

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October 15, 2009

## DRAFT

Chairman Scott York and the  
Loudoun County Board of Supervisors  
1 Harrison Street, 5<sup>th</sup> Floor  
Leesburg, Virginia 20177

**RE: ZOAM-2009-0002 Zoning Ordinance Amendment to Restrict the Parking of Vehicles on Unpaved Surfaces and Limit Paved Parking Surface Areas Within Yards in Certain Residential and Planned Development Housing Zoning Districts**

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Dear Chairman York and Board Members:

By this letter the Planning Commission recommends that the Board of Supervisors consider the following issues and recommendations raised during the October 8, 2009 Planning Commission Work Session on ZOAM-2009-0002.

### PLANNING COMMISSION ISSUES

At the October 8, 2009 Planning Commission work session, Commissioners raised concerns regarding several issues that fall outside the scope of the Board's Intent to Amend. The Planning Commission does not wish to delay the current amendment but recommends that the Board of Supervisors consider these changes with a separate Ordinance amendment in the future.

- 1) The draft text does not include a minimum setback from side yards for paving, which could allow one the ability to pave a driveway up to the property line, resulting in paving that mistakenly crosses the property line and further increases runoff.
- 2) The draft text does not require a paving permit for driveways, allowing staff to proactively identify paving that exceeds the proposed limits and crosses property lines and instituting a revenue stream to help defer the cost of inspections.
- 3) The Planning Commission noted that there may be other avenues that homeowners have to create a Homeowners Association (HOA) to address issues like the parking of vehicles on lawns. The Planning Commission noted that the County Attorney should make available information on the process whereby homeowners of communities that have no HOA may petition the Virginia General Assembly to allow them to begin the process of creating one. The Planning Commission felt that this could be another approach a community that has no HOA may utilize to address issues like the parking of vehicles on lawns.

## **PLANNING COMMISSION'S ADDITIONAL RECOMMENDATIONS**

The Commission also recommends that the Board adopt an outreach and education program to explain to homeowners how the new regulations are to be administered and enforced.

The Planning Commission encourages the Board to consider these issues and recommendations and is prepared to offer any assistance the Board may wish.

Respectfully submitted,

Peggy Maio, Chairman  
Loudoun County Planning Commission

cc. Loudoun County Planning Commission  
Julie Pastor, Director of Planning

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